UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/79/Add.26
3 November 1993

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

ICELAND

1. The Committee considered the second periodic report of Iceland (CCPR/C/46/Add.5) at its 1266th to 1268th meetings, held on 19 and 20 October 1993, and adopted 1/ the following comments:

A. Introduction

2. The Committee expresses its appreciation to the State party for its elaborate and thorough report, which has been prepared in accordance with the Committee's guidelines, and for engaging through a highly qualified delegation in an extremely constructive dialogue with the Committee. It notes with satisfaction that the information provided in the report, and that orally submitted by the delegation in reply to both written and oral questions, enabled the Committee to obtain a comprehensive view of Iceland's actual compliance with the obligations undertaken under the International Covenant on Civil and Political Rights. The Committee, however, regrets that the second periodic report, which was due in 1987, was submitted with considerable delay.

B. Factors and difficulties affecting the application of the Covenant

3. The Committee finds that there are no important difficulties which may affect the effective implementation of the Covenant's provisions by the Government of Iceland.

1/ At its 1281st meeting, held on 29 November 1993.

C. Positive aspects

4. The Committee welcomes the efforts undertaken by the Government of Iceland since the submission of the initial report in 1981 in order to effectively guarantee the protection of rights set forth in the Covenant. Of particular importance in this respect were the adoption and the entry into force on 1 July 1992 of a new law resulting in the total separation of judicial and executive power, as well as comprehensive legislation concerning extensive changes in the judicial system and rules governing judicial procedure; the establishment in 1988, in accordance with Law No.13/1987, of the Office of Ombudsman of the Althing (Parliament); and the revisions of the Equal Status Law of 1976.

5. In this connection, the Committee notes with satisfaction that the Law No. 28/1991 on Equal Status and Equal Rights of Women and Men has contributed towards equal rights of men and women in general, although there is still room for improvement in practice with regard to the remuneration for work. The Committee also notes with interest the establishment of the Equal Rights Council with the aim of ensuring the proper implementation of the Equal Rights Law and of recommending proposals to the authorities regarding gender equality. The announced establishment of Equal Rights Committees at the municipal level throughout the country to provide counsel to municipal governments would further serve the promotion of the equality of rights of men and women.

D. Principal subjects of concern

6. The Committee notes with concern that the Icelandic Constitution is lacking in clear and comprehensive provisions dealing with the protection of all fundamental human rights as recognized in the numerous international human rights treaties, in particular in the International Covenant on Civil and Political Rights, to which Iceland is a party. The absence is not met by reliance on unspecified unwritten fundamental rules. This does not adequately meet the requirements of article 2, paragraph 2, of the Covenant, which enjoins States parties to take such legislative or other measures which may be necessary to give effect to the rights recognized in the Covenant. No matter how effective the Icelandic constitutional tradition of relying on unwritten fundamental rules and principles may be, codification of the rules governing the protection of human rights is an important element of protection.

7. In this connection, the Committee expresses its concern over the status of the Covenant within the national legal order and the lack of clarity concerning the resolution of eventual conflicts between the Covenant and the Constitution and other domestic legislation.

8. The Committee also expresses its concern over the apparent preference accorded, in the domestic law as well as in legal doctrine and jurisprudence, to the European Convention for the Protection of Human Rights and Fundamental Freedoms as against the International Covenant on Civil and Political Rights. In that regard, the attention of the State party is drawn to the fact that the latter guarantees a number of human rights not protected under the former and that permissible restrictions are less broad-based.

9. The Committee hopes that the pending legislation relevant to article 13 will be formulated in such a way as to allow the reservation thereunder to be withdrawn.

10. The Committee notes that some other requirements of the Covenant are not fully met, in particular those referred to in articles 4, 9, paragraphs 3 and 4, 19 and 24, paragraph 2. The Committee also notes that confessions made under duress are not clearly excluded as evidence, that inhuman and degrading punishment is still possible, and that there is still discrimination against children born out of wedlock and in favour of public officials. The possibility of a sentence of up to one year's imprisonment for libel presents problems in relation to article 19, and the limitation imposed upon naturalized citizens in the retention of their names of origin raises issues under article 26. The attention of the state party has also been drawn to the various General Comments adopted by the Committee.

D. Suggestions and recommendations

11. The Committee recommends that the State party take appropriate measures to incorporate provisions of the Covenant into domestic law and ensure that the Covenant be treated on an equal footing with regional human rights instruments, both in legal and practical terms.

12. In that context, the Committee recommends that the Government of Iceland consider amending the National Constitution in order to reflect adequately the provisions of the International Covenant on Civil and Political Rights and other international human rights treaties ratified by Iceland. In the meantime, the Committee strongly recommends that the Covenant be included by way of appropriate amendments in the draft law envisaging the incorporation of the European Convention for the Protection of Human Rights and Fundamental Freedoms into domestic law, at present before the Althing (Parliament) or in a similar legislative act.

13. The Committee also recommends that the Government reviews the continuing need for any reservation, with a view to withdrawing them.

14. The Committee emphasizes that further measures should be taken to ensure that the provisions of the Covenant are more widely disseminated, particularly among the legal profession and members of the judiciary.

15. The Committee strongly recommends that the reporting obligations of the State party under article 40 of the Covenant be strictly observed and that the third periodic report be submitted within the time-limit to be determined by the Committee.